

Assembly Bill No. 2825

Passed the Assembly August 18, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 9889.20 of, to amend, repeal, and add Sections 9884.8 and 9884.9 of, and to add Section 9884.75 to, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

AB 2825, Carter. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization from the customer before performing work and imposing charges. A violation of the act is a crime.

This bill would authorize the customer, as specified, to receive copies of invoices from the distributor, dealer, or manufacturer for all specified crash parts installed for which the customer is charged in excess of \$50 and would require automotive repair dealers to provide these invoices upon request by the customer. The bill would require automotive repair dealers, prior to providing these invoices, to remove the price paid for these crash parts, as specified, and would specify that the failure of an automotive repair dealer to remove the prices does not constitute a violation of the act.

The bill would require the first page of the itemized written estimate to include a notice, as specified, stating that installing parts other than those described on the estimate without prior approval from the customer is unlawful and that the customer is entitled to receive copies of all invoices from the distributor, dealer,

or manufacturer for each specified crash part. The bill would additionally require an automotive repair dealer to provide on the first page of the final invoice, a statement that installing parts other than those described on the estimate without prior approval from the customer is unlawful and that if the customer has requested copies of invoices, those copies are attached. The bill would make findings and declarations in this regard. The bill would make these provisions operative on January 1, 2010.

Because a violation of the bill's provisions, except as specified, would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) At least 10 percent of all crashes nationwide occur in California and there are over one million vehicles involved in accidents in California every year or nearly 3,000 every single day.

(b) Part switching is the practice whereby some auto body repair shops charge the consumer or insurer the cost of a repair part that was not actually installed on a vehicle.

(c) Part switching is unlawful and is prosecuted by the Bureau of Automotive Repair (BAR) when uncovered. Auto body repair shops are required under California statutes and BAR regulations to install parts specified in an estimate at the time of each collision repair.

(d) In January of 2007, the BAR reopened the Auto Body Inspection Program but can only do a limited number of inspections of the over one million crash repairs done in California each year.

(e) In spite of the best efforts by the BAR to enforce car parts laws and regulations, many consumers may still be victimized by the illegal practice of "part switching."

(f) Many consumers are unaware of services to combat car part switching without their prior approval and have insufficient tools to determine when this unlawful activity occurs.

(g) In its 2003 report, BAR recommends that stakeholders “explore specific methods and strategies to reduce unfair and illegal practices in the auto collision repair industry.”

(h) It is the intent of this legislation to educate, inform, and empower the consumer to be vigilant when contracting auto repair services and to not duplicate existing law.

(i) The best time to educate consumers about “parts switching” is at the time of collision repair.

(j) Consumers deserve assurances that they are getting what their insurance policies specify and what was specified on their estimate. Ensuring that consumers receive accurate information about repair service for their vehicles will help deter part switching and solidify a morally and ethically sound relationship between the customer and auto body repair shops.

SEC. 2. Section 9884.75 is added to the Business and Professions Code, to read:

9884.75. (a) The customer, pursuant to Section 9884.9, may choose to receive copies of invoices from the distributor, dealer, or manufacturer for all crash parts installed for which the customer is charged in excess of fifty dollars (\$50).

(b) (1) The automotive repair dealer, upon request by the customer as described in Section 9884.9, shall provide copies of invoices from the distributor, dealer, or manufacturer for all crash parts installed for which the customer is charged in excess of fifty dollars (\$50).

(2) The automotive repair dealer, prior to providing these invoices, shall remove the price the automotive repair dealer paid for the crash parts from the copies of the invoices.

(c) The failure of an automotive repair dealer to remove the prices as required by subdivision (b) shall not constitute a violation of this chapter as described in Section 9889.20.

SEC. 3. Section 9884.8 of the Business and Professions Code is amended to read:

9884.8. (a) All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which

shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 4. Section 9884.8 is added to the Business and Professions Code, to read:

9884.8. (a) All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts installed. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are installed, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt, or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

(b) The first page of the final invoice shall contain the following statement in 12-point boldface type or larger enclosed in a box:

“INSTALLING A PART, OTHER THAN A PART DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL. FOR MORE INFORMATION, PLEASE CONTACT THE STATE BUREAU OF AUTOMOTIVE REPAIR. IF, ON THE WRITTEN ESTIMATE, YOU CHOSE TO RECEIVE COPIES OF

INVOICES FOR CRASH PARTS INSTALLED ON YOUR VEHICLE, THESE INVOICES ARE ATTACHED TO THIS FINAL INVOICE.”

(c) This section shall become operative on January 1, 2010.

SEC. 5. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer’s signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

“I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)”

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 6. Section 9884.9 is added to the Business and Professions Code, to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary

for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts installed in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are installed. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by anyone other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the

same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The written estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part. In all instances, the first page of the written estimate shall contain a notice with the following information in 12-point boldface type or larger enclosed in a box:

“INSTALLING A PART, OTHER THAN A PART DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL. FOR MORE INFORMATION, PLEASE CONTACT THE STATE BUREAU OF AUTOMOTIVE REPAIR.

YOU ARE ENTITLED TO RECEIVE COPIES OF ALL INVOICES FROM THE DISTRIBUTOR, DEALER, OR MANUFACTURER FOR EACH CRASH PART INSTALLED ON YOUR VEHICLE FOR WHICH YOU ARE CHARGED IN EXCESS OF FIFTY DOLLARS (\$50) (BUSINESS AND PROFESSIONS CODE SECTION 9884.75).

YOU MUST CIRCLE AND INITIAL ONE OF THE FOLLOWING:

YES, I WANT TO RECEIVE COPIES OF THE INVOICES.

NO, I DO NOT WANT TO RECEIVE COPIES OF THE INVOICES.”

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not

be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

(e) This section shall become operative on January 1, 2010.

SEC. 7. Section 9889.20 of the Business and Professions Code is amended to read:

9889.20. Except as otherwise provided in Sections 9884.75 and 9889.21, any person who fails to comply in any respect with the provisions of this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor